



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/Sub.2/1991/NGO/44
2 September 1991

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention
of Discrimination and
Protection of Minorities
Forty-third session
Agenda item 4

REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH
WHICH THE SUB-COMMISSION HAS BEEN CONCERNED

HUMAN RIGHTS AND THE ENVIRONMENT

Written statement submitted by International Educational Development Inc.,
a non-governmental organization in consultative status (roster)

The Secretary-General has received the following communication
which is circulated in accordance with Economic and Social Council
resolution 1296 (XLIV).

[30 August 1991]

1. International Educational Development welcomes the work undertaken by the Sub-Commission and the Special Rapporteur, Mrs. Fatma Zohra Ksentini, to address human rights and the environment. Although the Special Rapporteur is still in the early stages of her work, we are also pleased that she has spent much time meeting with and listening to non-governmental organizations on this important topic. We attended such a meeting with her and a number of other NGOs at the invitation of the Sierra Club Legal Defense Fund, and were very impressed with her insight and understanding of environmental human rights concerns.

2. Mrs. Ksentini's note (E/CN.4/Sub.2/1990/12) and her preliminary report (E/CN.4/Sub.2/1991/8) set out some of the areas of consideration and some of the initial replies and comments regarding her work. We would like to address one substantive issue which we feel merits attention as her work progresses: environmental refugees.

3. Man-made and natural environmental disasters quite obviously cause people to migrate to other areas out of danger zones. Danger zones can include areas where man-made objects such as dams, power plants and industrial facilities give way or emit dangerous forces, or where human activities have led to depletion of agricultural land, or where military operations have destroyed water or food supplies. For example, the recent indiscriminate bombing of the Iraqi people and their subsistence resources and the ongoing bombing of Tamil population centres in Sri Lanka are two of the many examples of this latter problem. Natural phenomena include drought, hurricane, earthquake and the like. Frequently, these migrations of people involve crossing international boundaries.

4. Refugee law, the primary body of international law addressing movement of peoples from one country to another, provides legal rights for persons fleeing armed conflict, persons fleeing persecution and persons fleeing torture. Yet the right to life and security of the person, the rights to health, the right to food and the right to employment are all put at risk by environmental disasters. The international community must provide sufficient rights to ensure adequate protection for persons fleeing such disasters.

5. As Mr. Hector Gros Espiell, the distinguished representative of Uruguay, stated at the 1991 session of the Commission on Human Rights, it will be necessary to revise all the traditional definitions of the concept of refugees. To that comment we add that it will also be necessary to revise the remedies available for refugees to accommodate the special circumstances of ecological refugees. Ecological refugees do not necessarily need the right to long-term "asylum" in another country, but may only need the right to temporary shelter or care. However, they certainly need the protection of the right of non-refoulement until life-threatening dangers have abated.

6. In this area, the traditional international law of necessity may be relevant. Rights arising from necessity are most evolved in maritime law, where there is a duty to rescue at sea as well as a right of endangered vessels to enter any country during a storm, even without prior customs clearance. (The international rule is "any port in a storm".) Surely the international community can recognize the equivalency of the dangers involved between storms at sea and disaster on land.

7. We urge the Special Rapporteur to request information regarding ecological refugees and the best ways to protect vital human rights. In this light, we think comments by the United Nations High Commissioner for Refugees could be especially helpful.

Discrimination against HIV-infected people or people with AIDS

8. International Educational Development is also pleased with the efforts of the Sub-Commission and its Special Rapporteur, Mr. Luis Varela Quiros, to address discrimination resulting from AIDS (E/CN.4/Sub.2/1991/10). We are also equally pleased at the willingness of the Rapporteur to discuss the topic with non-governmental organizations, and we have taken advantage of that willingness.

9. We understand the issue of discrimination to be twofold:

(a) There is discrimination in allocation of resources for medical research and treatment of AIDS by private and governmental entities;

(b) There is discrimination against AIDS patients in the areas of travel, education, employment, social services, etc., in society as a whole and by Governments.

The discrimination arises from negative attitudes towards persons with AIDS or HIV. As the Secretary-General stated in his speech to the General Assembly on 20 October 1987: "the fight against AIDS is also a fight against fear, against prejudice and against irrational action born of ignorance. For these are the cause of the most critical violations of human rights".

10. We agree with the Special Rapporteur that:

(a) Discrimination against persons with AIDS is not justified under international law;

(b) The "public health" rationale or excuse for discrimination is no longer tenable in light of current scientific knowledge;

(c) Education is the key to stopping both the AIDS epidemic and the pattern of human rights violations of persons who already have AIDS;

(d) Governments must repeal all discriminatory laws, as they are based on outdated concepts.

We also insist that Governments must allocate more resources to both AIDS research and medical care.

11. We look forward to the final report of the Special Rapporteur, hopefully due at the Sub-Commission's 1992 session. We are convinced that this report will be a most important document in changing the current depressing reality of discrimination against persons with AIDS. As the Secretary-General also said: "Our battle is against AIDS, not against people with AIDS."

The right to freedom of opinion and expression

12. International Educational Development also is pleased at the decision of the Sub-Commission to address freedom of expression and opinion. This topic, considered a cornerstone of the Universal Declaration of Human Rights, has regrettably languished with declarations still in draft form after 30 years,

only 12 ratifications of the one scant Convention (Convention on the International Right of Correction, United Nations Treaty Series, No. 191, Vol. 439) and serious neglect. Now, with two Special Rapporteurs, Mr. Louis Joinet and Mr. Danilo Türk, we hope that there will be renewed vigor in affirming this right.

13. The importance of these rights is perhaps best illustrated by examples of the lengths that Governments go to prevent the free flow of opinion, expression and information. For example, the United States had a law, only very recently abolished, that prohibited entry visas to persons considered to have opinions considered "too leftist". The current and immediately preceding administrations both used that law to exclude from entry into the United States Nobel laureate for literature Mr. Gabriel García Márquez and head of the Palestine Liberation Organization, Mr. Yasser Arafat - the latter even to address the United Nations.

14. In India, the Government has arrested Mr. Sivanayagam, a Tamil refugee from Sri Lanka and the editor of a newspaper called Tamil Nation, published both in India and the United Kingdom. The Indian Government calls the publication a "clandestine" one, even though it has been published openly. Indeed, the only case against Mr. Sivanayagam, a fearlessly independent man, appears to be his support for the Tamil people in their struggle in Sri Lanka. Mr. Sivanayagam stated: "Tamil Nation is nobody's mouthpiece and is proud of its individuality and independence. If an Indian newspaper supports the Palestinian cause, it does not become a mouthpiece for the PLO."

15. In conclusion, these are but two of the hundreds of thousands of examples that need to be addressed. IED anticipates that the work of the rapporteurs will place this area back into the spotlight it so sorely needs. Perhaps the United Nations as a whole can be persuaded to take up again the draft declarations and other instruments with a view to strengthening and adopting them.
